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MAY 31 2006
OFFICE OF PETITIONS

In re Application of Kress et al. :
Application No. **10/606,809** : Decision on Petition
Filing Date: June 26, 2003 :
Attorney Docket No. 16018.900100 :

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2006, to withdraw the holding of abandonment. This is also a decision on the petitions filed in the alternative under 37 CFR 1.137(a) and 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

A non-final Office action was mailed on August 24, 2005.

Petitioner filed a reply to the Office action and request for a one-month extension of time on November 30, 2005.

All the papers filed November 30, 2005, listed the application number as 10/609,809, rather than 10/606,809. As a result, the papers were not matched with the correct file.

The instant petition was filed March 8, 2006. All the papers filed on March 8, 2006, list the application number as 10/609,809, rather than 10/606,809. As a result, the papers were not matched with the correct file.

A Notice of Abandonment was mailed on April 4, 2006.

During a review of the petition, the Office discovered the petition had been placed in the incorrect file.

The papers filed November 20, 2005, and March 8, 2006, have now been matched with the correct file.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

- (1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
- (2) The papers contained sufficient information for the Office to determine the correct application number.

The papers filed on November 30, 2005, meet the criteria above.

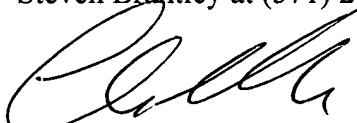
Additionally, the extension of time fee submitted November 30, 2005, is considered to have been timely paid since it was timely received but applied to another application. The fee will be appropriately applied and credited to the instant application.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition under 37 CFR 1.181 to withdraw the holding of abandonment has been granted, the petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b) are dismissed as moot. A fee has not been charged for either petition.

Technology Center Art Unit 3732 will be informed of the instant decision and the application, including the papers filed November 30, 2005, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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